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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2009-32

12 **NELSON S. VINSON**
1430 E. Maplegrove Street
13 West Covina, CA 91792

A C C U S A T I O N

14 **California Practice Privilege Registration**
15 **No. LG 86120**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the California Board of Accountancy (Board), Department of Consumer
22 Affairs.

23 2. On or about July 21, 2008, the Board issued California Practice Privilege Registration
24 Number LG 86120 to Nelson S. Vinson (Respondent), pursuant to his licensure with the Texas
25 State Board of Accountancy, License No. F00373. The California Practice Privilege Registration
26 was in full force and effect at all times relevant to the charges brought herein and expired July 21,
27 2009 pursuant to Business and Professions Code section 5096, subdivision (f).

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5096 states:

“(a) An individual whose principal place of business is not in this state and who has a valid and current license, certificate or permit to practice public accountancy from another state may, subject to the conditions and limitations in this article, engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license under this chapter if the individual satisfies one of the following:

(1) The individual has continually practiced public accountancy as a certified public accountant under a valid license issued by any state for at least four of the last ten years.

(2) The individual has a license, certificate, or permit from a state which has been determined by the board to have education, examination, and experience qualifications for licensure substantially equivalent to this state's qualifications under Section 5093.

(3) The individual possesses education, examination, and experience qualifications for licensure which have been determined by the board to be substantially equivalent to this state's qualifications under Section 5093.

(b) The board may designate states as substantially equivalent under paragraph (2) of subdivision (a) and may accept individual qualification evaluations or appraisals conducted by designated entities, as satisfying the requirements of paragraph (3) of subdivision (a).

(c) To obtain a practice privilege under this section, an individual who meets the requirements of subdivision (a), shall do the following:

(1) In the manner prescribed by board regulation, notify the board of the individual's intent to practice.

(2) Pay a fee as provided in Article 8 (commencing with Section 5130).

(d) Except as otherwise provided by this article or by board regulation, the practice privilege commences when the individual notifies the board, provided the fee is received

1 by the board within 30 days of that date. The board shall permit the notification to be provided
2 electronically.

3 (e) An individual who holds a practice privilege under this article:

4 (1) Is subject to the personal and subject matter jurisdiction and disciplinary
5 authority of the board and the courts of this state.

6 (2) Shall comply with the provisions of this chapter, board regulations, and
7 other laws, regulations, and professional standards applicable to the practice of public
8 accountancy by the licensees of this state and to any other laws and regulations applicable to
9 individuals practicing under practice privileges in this state except the individual is deemed,
10 solely for the purpose of this article, to have met the continuing education requirements and ethics
11 examination requirements of this state when such individual has met the examination and
12 continuing education requirements of the state in which the individual holds the valid license,
13 certificate, or permit on which the substantial equivalency is based.

14 (3) Shall not provide public accountancy services in this state from any office
15 located in this state, except as an employee of a firm registered in this state. This paragraph does
16 not apply to public accountancy services provided to a client at the client's place of business or
17 residence.

18 (4) Is deemed to have appointed the regulatory agency of the state that issued
19 the individual's certificate, license, or permit upon which substantial equivalency is based as the
20 individual's agent on whom notices, subpoenas or other process may be served in any action or
21 proceeding by the board against the individual.

22 (5) Shall cooperate with any board investigation or inquiry and shall timely
23 respond to a board investigation, inquiry, request, notice, demand or subpoena for information or
24 documents and timely provide to the board the identified information and documents.

25 (f) A practice privilege expires one year from the date of the notice, unless a
26 shorter period is set by board regulation.

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1 (g)(1) No individual may practice under a practice privilege without prior
2 approval of the board if the individual has, or acquires at any time during the term of the practice
3 privilege, any disqualifying condition under paragraph (2) of this subdivision.

4 (2) Disqualifying conditions include:

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6 (B) Revocation, suspension, denial, surrender or other discipline or sanctions
7 involving any license, permit, registration, certificate or other authority to practice any profession
8 in this or any other state or foreign country or to practice before any state, federal, or local court
9 or agency, or the Public Company Accounting Oversight Board.

10 (C) Pendency of any investigation, inquiry or proceeding by or before any state,
11 federal or local court or agency, including, but not limited to, the Public Company Accounting
12 Oversight Board, involving the professional conduct of the individual.

13 (D) Any judgment or arbitration award against the individual involving the
14 professional conduct of the individual in the amount of thirty thousand dollars (\$30,000) or
15 greater.

16 (E) Any other conditions as specified by the board in regulation.”

17 5. Section 5096.3 states:

18 “(a) Practice privileges are subject to revocation, suspension, fines or other
19 disciplinary sanctions for any conduct that would be grounds for discipline against a licensee of
20 the board or for any conduct in violation of this article or regulations implementing this article.

21 (b) Practice privileges are subject to discipline during any time period in which
22 they are valid, under administrative suspension, or expired.

23 (c) The board may recover its costs pursuant to Section 5107 as part of any
24 disciplinary proceeding against the holder of a practice privilege.

25 (d) An individual whose practice privilege has been revoked may apply for a
26 new practice privilege not less than one year after the effective date of the board's decision
27 revoking the individual's practice privilege unless a longer time period, not to exceed three years,
28 is specified in the board's decision revoking the practice privilege.

1 (e) The provisions of the Administrative Procedure Act, including, but not
2 limited to, the commencement of a disciplinary proceeding by the filing of an accusation by the
3 board shall apply under this article.”

4 6. Section 5100 states:

5 "After notice and hearing the board may revoke, suspend, or refuse to renew any permit or
6 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing
7 with Section 5080), or may censure the holder of that permit or certificate for unprofessional
8 conduct that includes, but is not limited to, one or any combination of the following causes:

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10 "(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in
11 the application for a license, in obtaining a certificate as a certified public accountant, in obtaining
12 registration under this chapter, or in obtaining a permit to practice public accountancy under this
13 chapter.

14 "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same
15 or different engagements, for the same or different clients, or any combination of engagements or
16 clients, each resulting in a violation of applicable professional standards that indicate a lack of
17 competency in the practice of public accountancy or in the performance of the bookkeeping
18 operations described in Section 5052.”

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20 "(g) Willful violation of this chapter or any rule or regulation promulgated by the board
21 under the authority granted under this chapter.”

22 7. Section 498 states:

23 “A Board may revoke, suspend, or otherwise restrict a license on the ground that
24 the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact
25 or by knowingly omitting to state a material fact.”

26 8. Section 5062 of the Code provides that a licensee shall issue a report which conforms
27 to professional standards upon completion of a compilation, review or audit of financial
28 statements.

9. California Code of Regulations, title 16, section 58, provides that licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards.

10. Section 5107, subdivision (a), of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

PROFESSIONAL STANDARDS

11. Generally Accepted Auditing Standards ("GAAS") are issued by the American Institute of Certified Public Accountants (AICPA). The ten general, field work, and reporting standards outlined by GAAS (AU §150), which are interrelated, are discussed in the Statements on Auditing Standards ("SAS"). The SAS are codified by "AU" number in the AICPA's Codification of Statements on Auditing Standards.

12. Standards applicable to the performance of an agreed-upon procedures agreement are discussed in the Statements on Standards of Attestation Engagements (SSAE) and are codified by “AT” number.

13. Reporting (disclosures) standards required by GAAS are issued by either the Financial Accounting Standards Board (FASB) or its predecessor, the Accounting Principles Board (APB). “FASB” or “APB” denotes pronouncements issued by these bodies.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Repeated Negligent Acts)

14. Respondent is subject to discipline pursuant to Code sections 5096.3, subdivision (a), and 5100, subdivision (c), in that Respondent committed gross negligence, and/or, repeated acts of negligence, for issuing an “Audit Report” for Lin-Ros Best Home Care, Lin-Ros Best Home Care No. 2, and MVM Home for the years ended December 31, 2006 and December 31, 2007.

Respondent's audit report failed to follow professional standards for an attestation and audit engagement and contained extreme departures from generally accepted auditing standards and regulatory requirements. The specific acts and standards of practice that were violated, that collectively constitute gross negligence, and/or, repeated negligent acts, are as follows:

Agreed Upon Procedures Report

a. Respondent issued an agreed upon procedures report that did not follow professional standards for an attestation engagement, in that it did not comply with AT section 201.31.

Audit Report

b. Respondent issued an audit report that failed to conform to professional standards outlined in AU section 508.08 as follows:

1. The audit report failed to include the word *independent* in the title.

2. The audit report failed to identify the United States of America as the country of origin for the generally accepted auditing standards used.

3. The auditor's opinion failed to include the phrase, "in all material respects;" does not opine on the cash flow statement; only refers to the year ended December 31, 2007 for the results of operations, rather than all periods presented; and, fails to identify the United States of America as the country of origin for the generally accepted accounting principles used.

c. Respondent failed to disclose the reasons for issuing an adverse opinion, which failed to conform to AU sections 508.59, 508.60 and 508.41.

d. Respondent stated in the audit report that he did not confirm accounts payable or accounts receivable, and instead performed alternative procedures. Pursuant to AU section 508.24, such a statement is inappropriate if in the auditor's judgment the alternative procedures were sufficient, as the reader of the audit report may believe that the scope limitation applies.

e. Respondent's auditor's opinion does not indicate the degree of responsibility that Responding took with respect to supplementary information that is submitted with the basic financial statements, which fails to conform to AU sections 551.05 and 551.06.

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1 Report on Internal Control

2 f. Respondent issued a report on internal control that did not conform to professional
3 standards AU sections 325.09, 325.10, 325.11, 325.13 and 325.19, in that Respondent issued a
4 report on internal control for the Lin-Ros Best Home Care partnership as part of his audit of Lin-
5 Ros Best Home Care, Lin-Ros Best Home Care #2 and MVM Home for the year ended
6 December 31, 2007. Respondent's primary responsibility was to audit the financial statements of
7 the above named companies, and Respondent should not have issued a separate opinion on the
8 internal control system of the companies. Rather, Respondent should have communicated either
9 orally or in writing to the owners of the companies being audited the reportable conditions and/or
10 weaknesses that he noted; or, if the intent of the owners of the companies was for Respondent to
11 perform an examination of the company's internal control system, then Respondent should have
12 issued a separate report on the effectiveness of the entities' internal control that was in accordance
13 with the AICPA's Statements for Attestation Engagements.

14 Financial Statements

15 g. Respondent failed to present a change in the partners' capital accounts in the basic
16 financial statements, income statements, or in the notes to the financial statements, which failed to
17 conform to APB No. 12, paragraph 10.

18 Notes to the Financial Statements

19 h. Respondent failed to include informative disclosures with the audited financial
20 statements as required by GAAS' third standard of reporting, and applicable standards as follows:

- 21 1. Summary of Significant Accounting Policies (APB No. 22, paragraphs 8, 12, and
22 13).
- 23 2. Allowance for Doubtful Accounts (FAS No. 4, paragraphs 8 and 22; APB No. 12,
24 paragraph 3).
- 25 3. Depreciation and Amortization Methods (APB No. 12, paragraph 5).
- 26 4. Related Party Transactions (FAS No. 57, paragraph 2).
- 27 5. Long-Term Debt (FAS No. 47, paragraph 10).
- 28 6. Capital and Operating Leases (FAS No. 13, paragraph 16).

1 7. Statement of Cash Flows (FAS No. 95, paragraph 29).

2 Working Papers

3 i. Respondent failed to adequately define the overall audit strategy for the audit, which
4 failed to conform to GAAS' second standard of fieldwork, and AU sections 311.14 and 311.16.
5 Specifically, Respondent prepared a document entitled "Audit Plan" that included general client
6 information, audit objectives, and audit procedures. The Audit Plan failed to include discussions
7 of industry specific reporting, materiality levels, preliminary identification of risk of material
8 misstatements, or consideration of fraud.

9 j. Respondent failed to document in the working papers the audit team's discussions of
10 material misrepresentations due to error or fraud, which failed to conform to AU sections
11 314.122, and 316.83.

12 k. Respondent failed to consider audit risk or determine a materiality level, which failed
13 to conform to AU sections 312.11, 312.12, 312.13 and 312.27.

14 l. Respondent failed to document that he evaluated the five components of internal
15 control, or that Respondent evaluated the risk of material misrepresentations in the financial
16 statements, which failed to conform to GAAS' second standard of field work, and AU sections
17 314.40 and 314.102.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Violation of Professional Standards)**

20 15. Respondent is subject to discipline pursuant to Code sections 5096.3, subdivision (a),
21 and 5100, subdivision (g), in conjunction with California Code of Regulations, title 16, section
22 58, in that Respondent willfully violated applicable professional standards. The circumstances of
23 this violation are set forth in paragraph 14, above, which is incorporated herein by reference.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure to Issue Report in Accordance with Professional Standards)**

26 16. Respondent is subject to discipline pursuant to Code sections 5096.3, 5100,
27 subdivision (g), and 5062, in that Respondent issued an auditor's report that failed to conform to
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1 professional standards. The circumstances of this violation are set forth in paragraphs 14, above,
2 which is incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Fraud, Deceit, and/or, Misrepresentation or Omission of Material Fact)**

5 17. Respondent is subject to discipline pursuant to Code sections 5096.3, subdivision (a),
6 5100, subdivision (b), and 498, in that Respondent secured his California Practice Privilege
7 Registration by fraud, deceit, or knowing misrepresentation of a material fact, or by knowingly
8 omitting to state a material fact. Specifically, Respondent does not qualify for a California
9 Practice Privilege pursuant to Code section 5096, subdivision (a), and knowingly omitted to state
10 in his application for California Practice Privilege that he does not have a principal place of
11 business located outside of the State of California. Since receiving his Texas Certified Public
12 Accountant License in April 2003, Respondent has not practiced public accountancy or
13 maintained an office, independently or at a client's office, and/or, residence, in the State of Texas
14 or any other state.

15 **PRAYER**

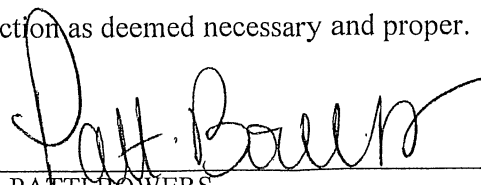
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the California Board of Accountancy issue a decision:

18 1. Revoking or suspending or otherwise imposing discipline upon California Practice
19 Privilege Registration Number LG 86120, issued to Nelson S. Vinson;

20 2. Ordering Nelson S. Vinson to pay the California Board of Accountancy the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 5107;

23 3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: December 7, 2009



26 PATTI BOWERS
27 Executive Officer
28 California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant